IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL REVISION APPLICATION NO. 53 OF 2003.

Mr. Santosh N. Malgaonkar,
H. No. 148/5, Ferra Alto,
Mapusa. ... Applicant.

Versus

State (C.I.D. Anti
Corruption Branch, Panaji. ... Respondent.

Mr. S.M. Singbal, Advocate for the Applicant.

Mr. S.N. Sardessai, Public Prosecutor for the Respondent/State.

Coram : P.V. HARDAS, J.

Date : 11th December 2003.

ORAL JUDGMENT.

This Criminal Revision Application has been filed against the Order, dated 6th August 2003, passed by the Special Judge, North Goa, Panaji, in Special Case No. 1 of 2000, dismissing the application for discharge filed by the applicant/accused. The applicant/accused had principally sought his discharge, from the aforesaid case, on the ground that he was not a public servant within the meaning of the definition of 'public servant' under the Prevention of Corruption Act, 1988.

2. Whether a person is a 'public servant' within the meaning of the definition of 'public servant' under the Prevention of Corruption Act is not a question which can be decided at the threshold, as evidence in respect of the nature of duties, etc., will have to be

appreciated. Mr. Singbal, learned counsel appearing for the applicant, in the light of this, states that he may be permitted to withdraw this Criminal Revision Application and may be permitted to urge that the applicant is not a 'public servant' within the meaning of the definition 'public servant' under the Prevention of Corruption Act at the stage of final argument of the trial

3. Accordingly, Criminal Revision Application is allowed to be withdrawn and, as such, is dismissed as withdrawn with liberty to the applicant to agitate this question before the learned trial Court, after the recording of evidence. The learned trial Court shall, after the parties lead their evidence, decide whether the applicant is a 'public servant' uninfluenced by any observations or findings recorded in the Order impugned in the present Criminal Revision Application. Order accordingly.

(P.V. HARDAS)
JUDGE.

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